

**Gallatin County Interim Zoning Task Force  
Minutes for May 27, 2009**

**Date:** May 27, 2009

**Time:** 6:30AM

- Place: Belgrade City Hall, 91 E. Central

**Task Force Members Present:** Don Seifert, Shane Skinner, Dick Huttinga; Rich Morse; Ron Pike; Sandy Lee; Jackie Flikkema; Alvin Vander Vos

**Task Force Members Absent:** Drew Jenkins;

**County Staff/Personnel Present:** Jason Karp, Heidi Jensen, Tom Rogers

**County Commissioners Present:** None

**Public Present:** Carol Roark

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Meeting commenced at 6:33AM

No public comment.

Next meeting time and place. Don talked about Rich's plan to move over to DEQ and work from Helena. He then talked about how we could Skype Rich in to attend all the remaining meetings. Meetings will be at 6:30AM at Belgrade City Hall. June 10<sup>th</sup> and 24<sup>th</sup>. Drew Jenkins was the full citizen advocate so Heidi and I requested that he be moved down to the alternate position and Shane Skinner was moved up to the full citizen advocate position on the task force.

Minutes from the May 13, 2009 approved unanimously.

A rough draft should be supplied to the TF by the first meeting in July. Tom thought it was more global than just a rough draft. Don envisioned it as modules that we were plugging into the regulation, such as compatible use, classification, and adjacency contiguous area of exceptional resource. Those are areas that he visualizes could be plugged into as we go. Using the regulations and the CUP process as a guideline we can plug the modules in. Today he wants to go through the definitions.

Don talked about the signed HB 678, and that we keep it in context when we are reviewing information as we go. Rich asked if there was anything in 678 we specifically wanted to talk about. Don said that the Governor's letter gives direction to the DEQ and how the bill shall be administered. Jackie said that we had to be careful to not interpret the bill our way instead of how it is as law.

Heidi forgot to include the new definitions in the packet. Don wanted to talk about classification. Don is getting gravel from Ron. No one on the TF has a problem with the \$400-500 worth of gravel being placed on his property. Tom was asked to go through the non-compatible use section of the classification system on page 3. He said it began by writing down the information that he gathered from here and how the TF had talked about where gravel was and if someone wanted to sell it the external effects should be considered. If it is an agricultural area or an industrial area that is a compatible use, where as residential doesn't. Tom included site assessment and what it means to anyone reading the document. Following that is the sound noise level requirements that MDEQ uses. He then goes into what he has felt to be the most difficult topic which is non-compatible uses. At what level is the non-compatible use a problem? It will have to be continually re-evaluated. At what density does it become a problem? The proximities have been defined by DEQ and then we are suggesting here that a parent tract may be 600-acres and a pit is in the middle and it is  $\frac{1}{4}$  of a mile from any subdivision which would make the use non-compatible it isn't an issue based on distance. The scale system that is on page 4 of the document, was what he considered simple math but again the use could be complicated. He has run the scale a couple times with the pits going through the CUP process. The pits already permitted were only semi-problematic. Don said that it is important to recognize this begins to benchmark pits and what the non-compatible uses are. The benchmarks will not be really valuable until there are many pits permitted perhaps up to 50, but it will be very important later on. If you have 1000-acres in the middle of nowhere the benchmark would go down. It is one of the tools to determine the amount of mitigation needed for a pit. If you were going to put a pit in downtown Bozeman the mitigation would obviously be different. There was an emphasis on that it is just one of the mitigations that could be used. Moving onto classification, Rich was asked to proceed. Tom pulled Rich off the hot seat, by not agreeing with Don and the decision matrix should be the first thing to look at, and if you are in the middle of nowhere then it doesn't matter what you do, however, if you are in a location that does effect many others you need to recognize what your mitigation will be. Don is saying that we don't know what a score of 35 or 70 means until many pits are permitted. Jackie does not like leaving anything open, he wants to have something concrete, a starting basis. Don said his thoughts on that were that Tom could go out and score a pit a 50 on non-compatible uses. Comparing what 50 means to 70 is undetermined at this time. Jackie still doesn't like that. Don said we can look into this further and put perimeters on some things. Tom said the assurance and the known quantity is there but it would be impossible to have it hard and fast with every environment different. It is one more thing for the Commission to consider when they are making their decisions. Jackie has another question about comments, and ensuring that comments are only from the people in the vicinity. She understands that it comes down to the Commission but it doesn't give assurity to the operator and that is why they are here. Rich is interpreting what Tom was talking about working in a defined system and offering some discretion. Tom asked when does it become palatable to you as an operator and what makes it palatable? He said that the current Commission has been favorable to pits. Don asked if anyone had a problem with the differences between Class I, II and III. Rich said we hadn't changed much with classifications. Tom pointed out on a positive note he got a bunch of phone calls about the project in Manhattan. The way the questions came in it was very helpful

to be able to use the classification system. Jackie hoped it was done because she thinks the Class II process will not work. She doesn't think that it will help make the neighbors happy. Tom said you can't make everyone happy. Rich said the idea was to give the citizenry a chance to realize what was going on. The reality that it will be a two year project should be much more palatable to handle. Carol said that when she has been listening to this was she keeps in her mind that the average homeowner lives in the same place on average 5 years so a 2 year pit is much more palatable. After 5 years a pit really starts impacting a large number of owners. Don said what we have classified as type II is really hoping to give predictability for the operator and the citizens. Class III, is anything that doesn't meet I or II. Don went back over to the matrix and what we call a gravel district and how that definition changes with an operator, Staff and the public. What we are really talking about cumulative pits in an area, and that means. Jackie asked if anyone had talked to the County Attorney? Tom said we talked about delineating future development and putting information on plats at the Clerk and Records Office. Jackie said this was discussed a lot at the Legislature, and that it could be a lawyers feast. What we could be doing is setting up the County to be sued. Don talked about how everything accomplished here would have to be through zoning. The currently un-zoned areas of the County would need to be zoned for gravel pit. Carol said that the state was broken into mining districts hundreds of years ago. We might have the opportunity to use the work district if we use it carefully. Don explained how Ron did not like the word district which is why the term area of exceptional resource started to be used by the TF. Rich thought it was important to recognize why it was placed into this classification definitions at the beginning was because people will ask for it. Tom said he has a possible suggestion, rather than a district, if there is an area that develops with other possibilities we could call it a geographic area with multiple operations (GAMO). An area with two or more operations within a certain area then there becomes the potential to impact many things. Don thought it was a good idea because it began to put a fence around what the Commission could begin to expect. Jackie asked we have to do and EA why do this? Carol said on the last EA she commented on this is where DEQ is not doing their job and distances from other pits was incorrect, instead of measuring air impacts instead of road distances. Jackie asked what are we trying to get out of this? The EA is already being done, are we just putting another name on something we are already doing? She thinks we are making this too hard, with the CUP already being done. Rich said he doesn't believe it is defined anywhere. Jackie thought we were adding another definition to something we already know is there. Sandy explained that we are doing this the way that subdivisions work with cumulative effects, and no pay back agreements in the County. Jackie said this is stuff that should already be provided. Rich agreed that it should be done, but we can't guarantee it will be and cumulative effects will be addressed this way. Jackie felt that cumulative effects could be a gateway to prohibiting. Don said that the Commission has asked us to duplicate some of what DEQ is doing so that when DEQ isn't doing their job we will have the ability to enforce. Don said everything we will do will go past Marty Lambert. Don asked Tom if we could get another meeting with Marty? Tom thought the district was potentially good for the operator because in some areas you want pits and others you don't. Don said if this is classified and you have 3 pits out in Ansey the cumulative effects have to be looked at. Jackie said if you do districts in un-zoned areas we are setting up ourselves. She thinks putting sideboards on

the EA would be more productive. Don said to make this work the Commission would have to zone only for gravel pits. One of the things that would have been helpful is the legislature allowing for overlay districts. Don asked if Tom had enough information to write some more in his draft? Tom said that he would have some questions but he would put his questionable information in italics and bold. He said the goal of the policy would influence other components would effect the submittal requirements for the CUP. He thinks what is being asked is fairly simple. The definitions support all the other procedural things. Don said it is important to look at it in a module format. Tom said that based on the things we have done with the current regulations he has some things that he would be interested in seeing changed or amended. He was thinking he could write down what he was thinking. Alvin asked if we cut out some of the information in the Class III table? Tom said no the table was correct, just follow the matrix. Jackie asked what peer review was. Tom explained.

Don thanked the group and asked the group what they would like to do next time.

Next time:

Talk about putting placeholders on property.

See if Marty would like to come.

Tom's new language